## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARRY M. PORTNOY and

GERARD M. MARTIN, as Trustees for

HUB PROPERTIES TRUST

Plaintiffs,

: NO. 02-CV-2905

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HONORABLE CLIFFORD

SCOTT GREEN

OMNICARE PHARMACEUTICS, INC.

and

OMNICARE CLINICAL RESEARCH, INC.,

Defendants.

## STIPULATION AS TO ADDITIONAL RENT AND RESTORATION COSTS

In accordance with the Court's Pre-Trial Order dated February 8, 2005, and in the interest of narrowing the issues at trial, the parties hereby stipulate to the following with respect to 525 Virginia Drive, Fort Washington, PA ("525").

- Included in Plaintiffs' claim for breach of contract are amounts they allege are owed by Defendants for "additional rent" and to restore the interior of 525 to its pre-June, 2001 flood condition and configuration ("restoration costs").
- 2. The amount of "additional rent" as defined by the lease for 525, including late charges and prejudgment interest, which has accrued between October 1, 2001 and April 15, 2005, is \$1,078,594.42. Notwithstanding this stipulation, the parties do not waive and explicitly reserve any and all arguments with regard to "additional rent" accruing after April 15, 2005. Notwithstanding this stipulation, Plaintiffs reserve their claims for "additional rent" incurred in March-April 2005 for which they have not yet

received an invoice, provided that an estimated amount has not already been considered in connection with this Stipulation.

3. The cost to restore the interior of 525 to its pre-June, 2001 flood condition and configuration is \$928,885.00. Notwithstanding this stipulation, Defendants do not waive and explicitly reserve any and all defenses and arguments against Plaintiffs' claim that Defendants are obligated to restore the interior of 525 to its pre-June, 2001 flood

condition and configuration.

Case 2:02-cv-02905-CG

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Dated: April 6, 2005

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